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November 21, 2001

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-B204
Washington, D.C. 20554

via electronic filing

Re: American Cable Association; *Ex parte* oral presentation, CS Docket No. 01-290

Dear Ms. Salas:

Under 47 CFR § 1.1206(b), we electronically provide this notice of an *ex parte* oral presentation on November 15, 2001. On that date, Martin F. Brophy, Jr., and Matthew M. Polka of the American Cable Association, and Christopher Cinnamon and Emily Denney of Cinnamon Mueller met with the following Cable Services Bureau and Office of Engineering and Technology officials:

Sara Whitesell, CSB, Associate Bureau Chief
Royce Sherlock, CSB, Policy and Rules Division, Deputy Chief
John Norton, CSB, Policy and Rules Division, Division Chief
John W. Berresford, CSB
Anne Levine, CSB
John Kiefer, CSB
William Cox, CSB
Alan Stillwell, OET
Jerry Stanshine, OET
Shanti Gupta, OET
Steve Broeckert, CSB
Karen Kosar, CSB
Stacey Robinson, legal advisor to Commissioner Kathleen Q. Abernathy
Susanna M. Zwerling, legal advisor to Commissioner Michael J. Copps

The purpose of our meeting was to introduce ACA to the Commission and convey key issues of concern to ACA. In response to questions on the structure of cable modem service and agreements between independent cable companies and unaffiliated ISPs, we discussed two types of transactions.

The first involves "turn key" providers, such as ISP Channel and High-Speed Access, both of which have withdrawn from the business. These transactions involve supplying headend equipment, cable modems, technical support, webpage support and a connection from a cable headend to the Internet backbone. In consideration for these services and use of equipment, the transactions involve revenue sharing in varying amounts.

The second type of transaction involves companies that have stepped up to replace ISP Channel and High-Speed Access. These companies generally do not provide the Internet backbone connection or headend equipment or cable modems. They provide technical support, and webpage hosting services.

In response to questions concerning multiple ISP access to small cable systems, we indicated that while it is technically feasible, as reported in ACA's comments, unaffiliated ISPs have shown little or no interest in multiple ISP arrangements on smaller systems. This result is most likely due to the lack of economic incentive where there is a limited subscriber base. As described by Mr. Brophy, when required to find a replacement for the High-Speed Access service in his company, he had to search far for a provider, ultimately finding one based in Atlanta. No local, regional, or national ISP contacted him during this time to propose a relationship.

We also met to express ACA member concern over the loss of satellite programming provided by vertically integrated programming providers if the exclusivity prohibition under current program access rules is allowed to sunset. Mr. Brophy provided a sample channel card that showed he could lose up to one-third of his expanded basic tier if vertically integrated programming providers were entitled to enter into exclusive agreements and permitted to withhold programming from independent operators or their buying group, the National Cable Television Cooperative.

Sincerely,

Emily A. Denney

cc: Martin F. Brophy, Jr.
Matthew M. Polka, Esq.
Christopher C. Cinnamon, Esq.

ex parte 112101

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